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UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Statutory Review of the System for Regulating Rates and Classes for Market Dominant Products	Docket No. RM2017-3

COMMENTS OF THE PARCEL SHIPPERS ASSOCIATION
PURSUANT TO COMMISSION ORDER NO. 5337
(February 3, 2020)

The Parcel Shippers Association (PSA) respectfully submits these comments in response to Order No. 5337, furthering the Postal Regulatory Commission's (Commission) review of the market dominant rates and classification system.[1] The review is required by the Postal Accountability and Enhancement Act (PAEA).[2] This is the sixth set of comments PSA has filed in this ongoing rulemaking.[3]

Founded in 1953, PSA represents companies that sell and ship goods to consumers and companies that support the parcel shipping industry. A list of PSA

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[1] Revised Notice of Proposed Rulemaking, December 5, 2019 (Order No. 5337) ("*RNPRM*").

[2] *See* Pub. L. 109-435, 120 Stat. 3198 (Dec. 20, 2006). The PAEA amends various sections of title 39 of the United States Code. Unless otherwise noted, section references in these comments are to sections of title 39.

[3] Comments of the Parcel Shippers Association Pursuant to Commission Order No. 3673, March 20, 2017; Comments of the DMA and Others Pursuant to Commission Order No. 3673, March 20, 2017; Comments of the American Catalog Mailers Association, Inc. (ACMA) and the Parcel Shippers Association (PSA), March 1, 2018; Reply Comments of the American Catalog Mailers Association, Inc. (ACMA) and the Parcel Shippers Association (PSA), March 30, 2018; Reply Comments of the Parcel Shippers Association (PSA), March 30, 2018.

members is available on its website, www.parcelshippers.org. PSA's mission is to foster competition in the parcel delivery market. It creates value for its members by promoting the best possible service at the lowest possible costs. For competition to succeed it must be fair and PSA has consistently argued for a "level playing field" in the package delivery market.[4]

This review remains limited to the rates and classification system for market dominant products. While PSA primarily represents the interests of its members with respect to Postal Service competitive products, its members also mail substantial volumes of market dominant products such as catalogues. Also, a healthy market dominant product line from the Postal Service is important to us not just because our members use the services, but because these products help fund the substantial shared Postal Service costs necessary to maintain the universal delivery network that our members depend on to deliver their products to their customers. Similarly, a healthy competitive product line is of critical importance to users of market dominant mail services.

The Growing Importance of Competitive Products to Continued Universal Service

As Postal Service traditional letter and flats mail services volumes and revenues have declined in the face of growing competition from email and

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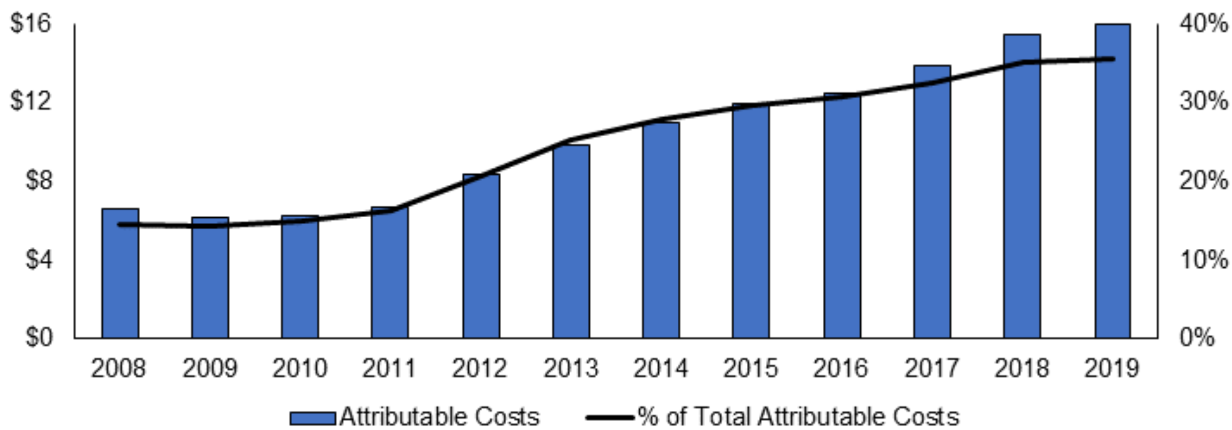
[4] *See, e.g.,* Docket No. R2013-11, Reply Comments of the Parcel Shippers Association, Dec. 6, 2013, at 3; *see also* Report on Universal Postal Service and the Postal Monopoly, Docket No. PI2008-3, Reply Comments of Parcel Shippers Association, August 4, 2008, at 2 ("PSA agrees that, as suggested by others, the Postal Service should be given substantial flexibility with respect to competitive products to adapt to market forces and compete on a level playing field."); *see also* Review of the Treasury Report, Docket No. PI2008-2, Comments of Parcel Shippers Association on Treasury Report. April 1, 2008, at 10 ("The overriding purpose of the PAEA in the competitive market was to level the competitive playing field: 'Our bill has the primary goal of allowing the Postal Service to continue to fulfill its universal service mission at a reasonable cost. To achieve this goal, the legislation establishes a modern system for regulating rates, gives needed flexibility to the Postal Service, and includes provisions to ensure a level playing field for the Postal Service and its competitors.' Statement for the Markup of the Postal Accountability and Enhancement Act House Committee on Government Reform by Rep. Henry A. Waxman (May 12, 2004)."

ecommerce,[5] competitive products volume and revenues have grown substantially. The competitive side of its business has become increasingly important to its ability to support the affordable, universal mail service expected by citizens and critical to business and consumers. Figures 1-4 below show that even taking into account growth in the attributable costs of competitive products (Figure 1), the increased presence of parcels in overall operations substantially improved Postal Service finances. As Figure 2 shows, due to a combination of package volume growth (*see* Figure 4) and rate increases, the contribution of competitive products has increased by $6.5 billion over the past decade, from $1.8 billion to $8.2 billion, and now represents 25 percent of institutional costs.

Figure 1

Competitive Product Attributable Costs (in Billion



Source: FY 2008 – FY 2019 Public CRA Reports & FY 2017 PRC-LR-ACR2017-1

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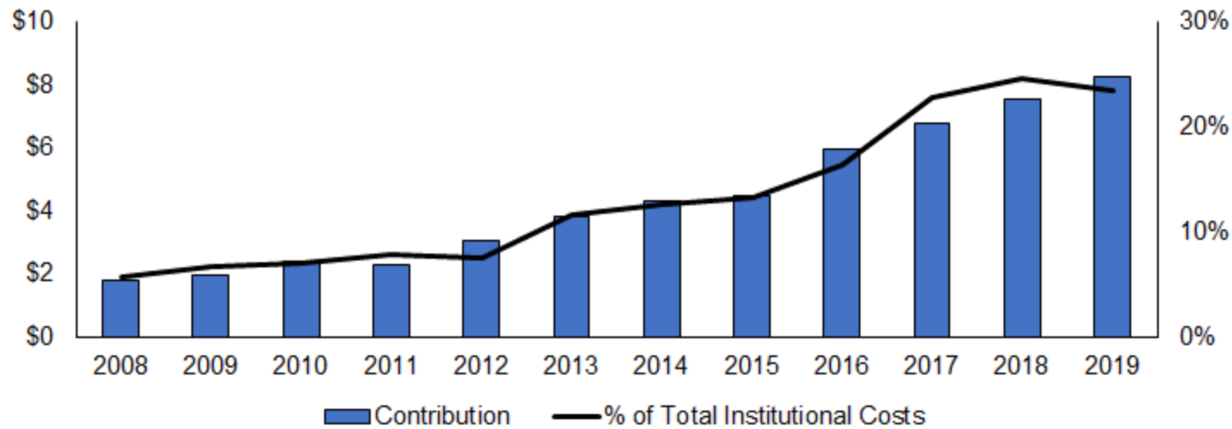
[5] Mail volume has declined from a high of 213.1 billion in 2006 (Revenue, Pieces & Weight (RPW) FY 2006) to a low of 142.6 billion in 2019 (Revenue, Pieces & Weight (RPW) FY 2019).

Figure 2

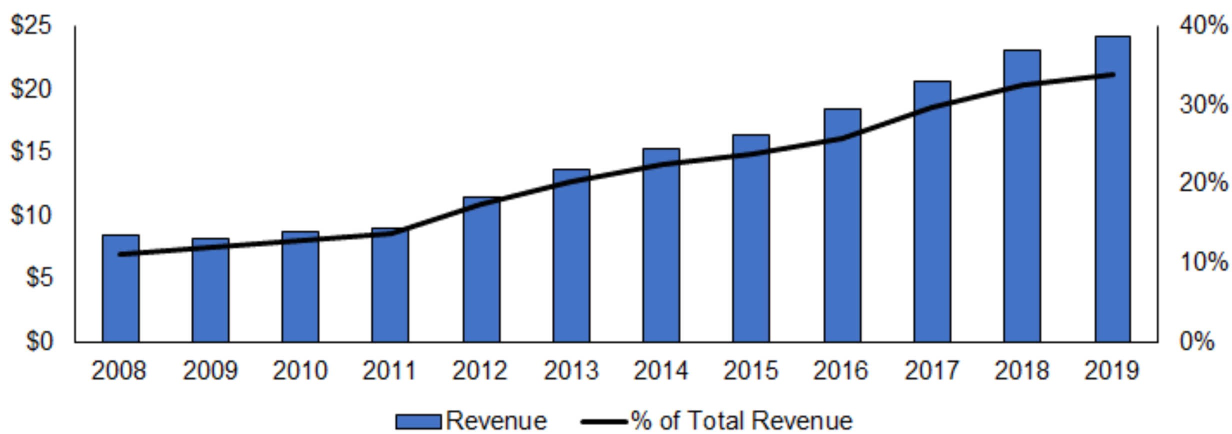
Competitive Product Contribution (in Billions)



Source: FY 2008 – FY 2019 Public CRA Reports & FY 2017 PRC-LR-ACR2017-1

Figure 3

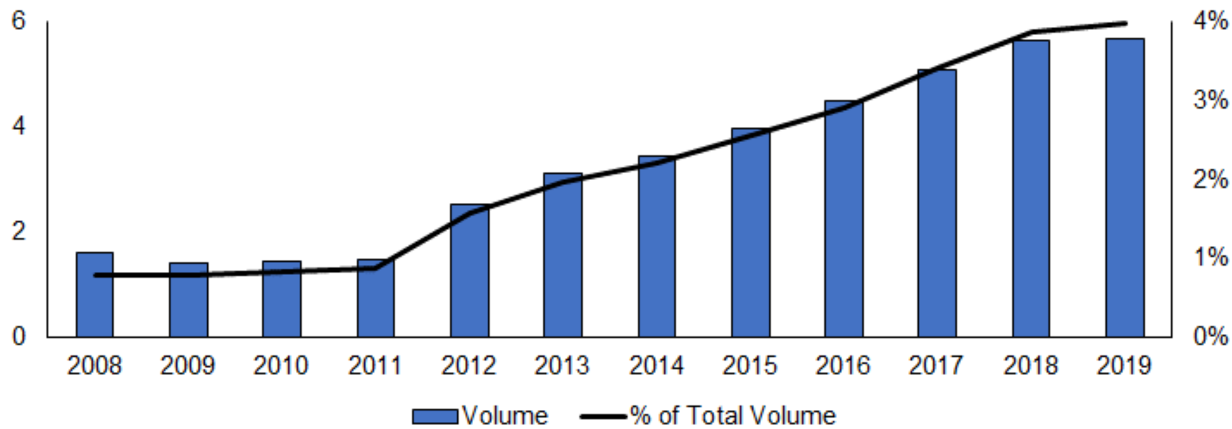
Competitive Product Revenue (in Billions)



Source: FY 2008 – FY 2019 Public CRA Reports & FY 2017 PRC-LR-ACR2017-1

Figure 4

Competitive Product Volume (in Billions)



Source: FY 2008 – FY 2019 Public CRA Reports

PSA's March 20, 2017 Initial Comments

In its March 20, 2017 comments[6] in response to Order No. 3673 initiating the review of market dominant ratemaking system PSA offered recommendations in several areas:

- The Price Cap System
- Worksharing
- Administrative Burden and Transparency
- Allocation of Institutional Costs

As discussed below, the proposed regulations are satisfactorily consistent with PSA's 2017 recommendations. But first, we address concerns with the additional pricing authority the RNPRM would afford to the Postal Service.

[6] Docket No. RM2017-3, Comments of the Parcel Shippers Association Pursuant to Order No. 3673, March 20, 2017, at 2 ("2017 PSA Comments").

Troublesome Additional Pricing Authority

Repeatedly in this rulemaking PSA and others have expressed and we expect will continue to express concerns that prices or surcharges that result in price increases exceeding percentage increases in the Consumer Price Index may hurt rather than help the financial position of the Postal Service. The RNPRM envisions such price increases. Indeed, the proposed regulations appear to permit price increases for market dominant products that would substantially exceed the CPI price cap as follows:

- The proposed regulations provide the Postal Service additional pricing authority as compensation for two factors that the Commission deems largely beyond the control of the Postal Service: volume density and legacy retirement obligations.
  - Additional pricing authority derived from a "density" formula taking into account changes in volume and number of delivery points that the Commission would have afforded the Postal Service an annual average of 1.23% additional pricing authority in recent years according to the Commission. *See* RNPRM at 80, Table IV-3 (Average of Density Rate Authority column).
  - The retirement obligations component is intended to offset legally required prefunding payments. PSA estimates this additional pricing authority could average almost 1% each year.
  - Thus, the proposed formula likely will result in more additional pricing authority greater than the CPI+2 proposal previously advanced by the Commission. *See* Order No. 4258 pp. 39 *et seq*. Also, the formula approach also seems certain to make the size of market dominant price adjustments less predictable than under the current system.
- Finally, the RNPRM affords the Postal Service two percent *additional,* authority for non-compensatory products.

The RNPRM may be counterproductive for postal finances. The key to financial stability is keeping mailbags full. The RNPRM would do the opposite. The proposal, for example, would allow price increases for Marketing Mail Flats (e.g., the catalogs many of PSA members mail) of about seven percent per year or about 40 percent over a five-year period.[7] Price increases of this size would surely result in significant volume declines.

Unfortunately, contemporary, reliable data to estimate the effect of such large increases does not exist. Due to the price cap, catalogs have not seen price increases of this magnitude in recent years. The recently filed “Econometric Demand Equations for Market Dominant Products as of January 2020” (filed on January 21, 2020) (“Demand Equations”) shows that real prices for Marketing Mail Commercial and ECR Basic Flats have been stable. Demand Equations at 87. Thus, the Postal Service’s price elasticity calculations based upon recent data provide little insight into the impact of the much larger increases permitted under the proposed regulations.

The most informative experience is the “steep price increases” for Marketing Mail Flats in March 2007.[8] In response to these price increases, Marketing Mail Flats volume declined by 40 percent, from 12.9 billion pieces to 7.8 billion pieces over the two years following the increases, and these volumes never recovered. USPS Revenue, Pieces, and Weight Reports.[9]

The Price Cap System

PSA commends the Commission for retaining a price cap system in its proposed regulations.[10] PSA and others have stressed there is no need, and it would be unwise,

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[7] Calculated by summing the average density authority (1.2%), amortization authority (0.9%), performance-based authority (1.0%), non-compensatory authority (2.0%), and CPI-U (assumed to be 2%) and compounding over five years. Average density authority calculated from Order No. 5337, p. 80, Table IV-3. Average amortization authority calculated from Order No. 5337, p. 100, Table IV-6.

[8] Decision of the Governors of the United States Postal Service on the Opinion and Recommended Decision of the Postal Regulatory Commission on Changes in Postal Rates and Fees, Docket No. R2006-1 (March 19, 2007) at 9.

[9] Revenue, Pieces & Weight (RPW) FY 2008 (FY 2007 column); Revenue, Pieces & Weight (RPW) FY 2009.

[10] RNPRM at 34-35.

to adopt an "alternative system" as the Commission could do pursuant to 39 U.S.C. §3622(d)(3).[11] As the Joint Parties' Comments note:

> [The Price Cap System] has produced results and real positive benefits for consumers, businesses and nonprofit organizations. Prior to PAEA rates were established under cost of service pricing where costs were simply passed on to mail users through higher rates. Under PAEA that is no longer true. USPS has been required to keep operating costs under control. PAEA has worked. We are concerned, however, that USPS cost cutting efforts have slowed in recent years, as noted by the Government Accountability Office. Eliminating the cap would be counterproductive as the incentives for USPS to reinvigorate such efforts would be reduced.[12]

PSA continues to believe that "[t]he process and procedures and the price cap system required by law for the initial system implemented by the Commission have indeed worked well."[13]

Worksharing Discounts

PSA strongly supports the proposed regulations that establish a floor for worksharing discounts.[14]

PSA has long argued requiring that workshare discounts be set equal to avoided costs would promote efficiency by ensuring that work is performed by the least cost provider. Discounts set at less than avoided cost result in the Postal Service performing work that can be better performed by the private sector and maintaining an

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[11] *See* Docket No. RM2017-3, Comments of the Data & Marketing Association (DMA), American Catalog Mailers Association (ACMA), American Forest & Paper Association (AF&PA), Association for Postal Commerce (PostCom), Envelope Manufacturers Association (EMA), Greeting Card Association (GCA) Idealliance, Parcel Shippers Association (PSA), and Saturation Mailers Coalition, at 1. (Joint Parties' Comments).

[12] Joint Parties' Comments at 1-2.

[13] 2017 PSA Comments at 2.

[14] RNPRM at 175-212.

inappropriately large network. Proper workshare discounts are important to PSA members who mail catalogues. Recent dropship discounts for Standard Mail (Marketing Mail) flats (both for the Flats and Carrier Route product) have been set below costs avoided.

> Under the PAEA, the Commission must review workshare discounts to ensure that the discounts do not exceed the Postal Service's avoided costs, subject to limited exceptions. See, 39 U.S.C. 3622(e)(2). The Commission has said that "[l]egally, workshare discounts are only bound by this ceiling; the Postal Service is not bound by this provision to increase a workshare discount that is less than avoided costs." *But although the law, i.e. section 3622(e), expressly establishes only a ceiling, the Commission has the authority, especially in this rulemaking, to adopt a rule establishing a cost-based "floor" on workshare discounts. And it should.*
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> Requiring that discounts be set equal to avoided costs would promote efficiency by ensuring that work is performed by the least cost provider. Discounts set at less than avoided cost result in the Postal Service performing work that can be better performed by the private sector and maintaining an inappropriately large network. (Emphasis added).[15]

Administrative Burden and Transparency

In its 2017 PSA Comments, PSA said it "believes that the Postal Service is very transparent, disclosing a massive amount of information, much more than its competitors disclose, each year as part of the annual compliance process and when it files rate adjustments. While this objective does not apply to the ratemaking system for competitive products, PSA believes that the Commission has also properly balanced The RNPRM limits the time for mailers and other interested parties to provide comments on proposed market dominant price adjustments extending the comment period to 30 days for new rate proposals and 10 days for amended rate proposals. The time for the Commission to review proposed rate changes would increase from 45 days to 90 days. These changes reduce somewhat pricing flexibility for the Postal Service.

[15] *See* 2017 PSA Comments at 5-6

Allocation of Institutional Costs

PSA has argued that this is better considered in proceedings under 39 U.S.C. §§3633, 3652, and 3653. In Docket No. RM2017-1 PSA and others argued that the minimum contribution requirement should be eliminated.[16] A new minimum requirement was decided in that docket, is currently pending appeal at the U.S. Court of Appeals for the D.C. Circuit, and is not addressed in the RNPRM. This is as it should be.

CONCLUSION

The Parcel Shippers Association appreciates the Commission's consideration of these comments.

Respectfully submitted,

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[16] *See* Comments of the Parcel Shippers Association (PSA), Alliance of Nonprofit Mailers, American Catalog Mailers Association, Data & Marketing Association, Envelope Manufacturers Association, National Association of Presort Mailers, National Newspaper Association, PSI Systems, and Stamps.com (collectively "Market Dominant Mailers and Competitive Shippers"), January 23, 2017, at 8. ("All of us urge the Commission to eliminate the minimum contribution requirement. This requirement is unnecessary to promote a level playing field between the Postal Service and its competitors, prohibit cross subsidization, or ensure that competitive products pay an appropriate share of the Postal Service's institutional costs. Indeed, the requirement is now an irrelevant anachronism: the contribution to institutional costs earned by the Postal Service from competitive products has far outstripped the 5.5 percent minimum established in 2007. Moreover, increasing the minimum contribution requirement enough to influence competitive product prices could harm the Postal Service, its customers, and American consumers. Even leaving the required minimum contribution in place at its current level would be a needless invitation to mischief.").